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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,048	06/20/2001	Francois Cunchon	T2147-907310	2706

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER

NGUYEN, THAN VINH

ART UNIT	PAPER NUMBER
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2187

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/884,048	CUNCHON ET AL.	
	Examiner	Art Unit	
	Than Nguyen	2187	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is a response to the request for reconsideration, filed 3/13/06.
2. Claims 9-20 are pending.

Response to Arguments

3. Applicant's arguments with respect to claims 9-20 have been considered but are moot in view of the new ground(s) of rejection. Applicant has amended the claims to include new limitations not previously considered. The amended claims change the scope of the claimed invention. The amended claims are addressed below. The amended claims/invention is taught by previously cited prior art (Alexander; US 6,393,559). Applicant should note that Applicant claims functions (startup function, automatic repair function, mounting function) but have not given any details of what these functions are, other than their designated name. The Examiner will read these "functions" as routines/program steps that call one another. The Examiner suggest Applicant provide more details on these functions to more clearly define the claimed invention.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 9 recites the limitation "the operating system mounting function" in line 8 of claim. There is insufficient antecedent basis for this limitation in the claim. Claims 10-15 are also rejected for the same deficiency.

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6. Claim 9 recites the limitation "the mounting function" in line 9 of claim. There is insufficient antecedent basis for this limitation in the claim. Claims 10-15 are also rejected for the same deficiency.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 9-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Alexander (US 6,393,559).

As to claim 9:

Alexander teaches a self-healing BIO initialization code. Alexander teaches the claimed computing machine comprising a RAM (RAM; 1/15) and a mass memory (hard disk 1/33) in which an operating system is stored, characterized in that the mass memory comprises a partition that is read-only accessible to the operating system (1/20-25), said partition containing a startup function (startup/boot up; 1/9-15), wherein for every startup of the computing machine, a BIOS initiates the startup function which resides at an address of the partition, the startup function calls the automatic repair function (BIOS code is run; 1/15-39), the automatic repair function calls the mounting function (mount/load OS; 2/35-37) and, if an error is detected during the mounting

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function, the automatic repair function (BIOS init) automatically calls the startup function (repair and/or recall BIOS init again if encounter error during BIOS/OS initialization; 1/40-45; 2/23-30;3/1-35).

As to claim 10:

Alexander teaches the startup function comprises a first code sequence for loading the contents of the partition into RAM (load BIOS; 1/20-25) and a second code sequence for activating in RAM said automatic repair function (POST; 1/26-39)

As to claim 11:

Alexander teaches a third code sequence that calls said mounting function, executable in RAM with write capability in at least one other partition of the mass memory (POST; 1/15-20,33-35).

As to claim 12,13:

Alexander teaches a fourth code sequence for acknowledging an error indicated by said mounting function and a fifth code sequence for restarting the machine after the acknowledgment of the error (after error detected, reboot; 1/44-56).

As to claim 14:

Alexander teaches the mass memory is a hard disk (hard disk; 1/32).

As to claim 15:

Alexander teaches a switch for resetting the RAM and restarting the machine (reset/reboot/startup switch, 1/9).

As to claim 16:

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Alexander teaches a method for automatically starting a computing machine comprising a RAM and a mass memory, characterized in that it comprises:

a step that starts the machine by means of a signal (startup/reset/reboot signal; 1/9);

a step that automatically loads into the RAM contents of a partition of the mass memory (load BIOS; 1/12-15);

a step that automatically mounts an operating system from the RAM that includes the repair function based on a call from the automatic repair function which is called by a startup function residing in the partition (BIOS permits loading/mounting of operating system on the disk partition; 1/30-37);

a step that automatically acknowledges any error indicated in the third step and that reactivates the second step (detect error, repair, and reboot; 1/40-56; 2/23-30; 3/1-35).

As to claim 17:

Alexander teaches a step that creates partitions in the mass memory (1/30-33); storing at least part of the operating system and functions for executing a startup, the automatic repair function is capable of calling a mounting function and an acknowledgment function in the first partition, which is to be read-only accessible to said operating system (storing BIOS; 1/20-30).

As to claim 18:

Alexander teaches the automatic repair function acknowledges error(s) detected during the mounting of the operating system (1/40-46).

As to claim 19:

Alexander teaches calling a standard acknowledgement function to repair the error (1/40-63).

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As to claim 20:

Alexander teaches an instruction sequence to call the mounting function (call POST; 1/15,34); an instruction sequence that can call a standard acknowledgement function (acknowledge error; 1/44); and an instruction sequence that is capable of calling the startup function upon return of the acknowledgement (reboot; 1/44).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Than Nguyen whose telephone number is 571-272-4198. The examiner can normally be reached on 8am-3pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (571) 272-4201. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Than Nguyen
Primary Examiner
Art Unit 2187